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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,181	10/03/2003	Gordon Bowman	GLH 08-896329	2790
27667 7590 05/19/2010 HAYES SOLOWAY P.C. 3450 E. SUNRISE DRIVE, SUITE 140 TUCSON, AZ 85718				
EXAMINER AUGUSTINE, NICHOLAS				
ART UNIT		PAPER NUMBER		
2179				
NOTIFICATION DATE		DELIVERY MODE		
05/19/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

admin@hayes-soloway.com  
smckniff@hayes-soloway.com  
nsoloway@hayes-soloway.com

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/679,181

**Applicant(s)**

BOWMAN ET AL.

**Examiner**

NICHOLAS AUGUSTINE

**Art Unit**

2179

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 4-9-11-12-16-22-25 and 27.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Ba Huynh/  
Primary Examiner, Art Unit 2179

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues against the limitations found in claim 16 which similar limitations are now found in claim 27. The Examiner notes a distinction between the prior art and the immediate application specification but not between the claimed limitations. The Examiner notes that further describing the functional steps I. generating a function name; II. calling user interface control instructions; and III. rendering the DOM; into language that would better distinguish between what is described in the immediate applications disclosure and what is described in the prior arts. Until then the Examiner maintains the current rejection where the Examiner has previously stated that the prior art teaches upon the current limitations as outlined in the arguments section of the final rejection 12/24/2009.

Note: Bowers teaches of a test driver that is made up of the use of exam source files 130; these files store a vast amount of information crucial to the presentation of the interface (test) to the user (par.91-92; "exam source files"). Exam source files include data files 132, XXL files 134, multimedia files 136 and hypertext markup language files 138. The XXL files contain templates that determine the physical appearance of the test, plugins, and any additional data necessary to implement the test. Additional data is also stored in data files 132. In paragraph 102 and illustrated in figure 6 describes the contents of Exam source file 130, in which detailed is a collection of user interface control elements. Thus Bowers provides support for the limitation "a collection of user interface control elements including a user interface control element associated with a user interface control identified in the web application" (generating a function name) and "the web application described in presentation markup language that has been extended to include the collection of user interface control elements, each of the user interface control elements of the collection" (calling control). Further in paragraph 99, Bowers describes how collection of interface items are linked (object-linking and embedding or OLE) and stored thus providing support for the limitation; "the user interface control comprising a name element for associating the user interface control of the web application with the user interface control element of the collection of user interface control elements" (generating the function name).

Further in addition to what was discussed above, Bowers teaches of HTML files that include any visual component of the test, such as the appearance of the test times, questions, the appearance of the presentation on the display device, the appearance of any client specified customizations and/or the appearance of score reports (par.93). As outlined above, a function of a plug-in is to change the visual style of the test and multiple plugins can be stored for use by the test driver (visual plugins; par.96). Further detailing into paragraph 102 about the contents of exam source file 120 comprises visual files that are HTML files that specify the visual presentation of the test as presented to the examine on the display device, including item files 222, presentation files 224, score report files 226 and custom look files 228 (rendering the DOM). (par.110, 117, 134, 137).